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SEP 25 2006

REMARKS

This is responsive to the Office Action mailed on August 23, 2006. In the Office Action, claims 1-19 and 40-55 were rejected and claims 22 and 23 were objected to. Applicant currently has amended claims 1, 22, 40, and 49 and canceled claim 23. Support for the newly added claim language is found throughout the present application, and particularly at page 6, lines 14-17 and page 12, lines 19-20. New claim 56 reinstates original claim 21. The present application currently includes claims 1-20, 22 and 40-55. No new matter has been added. Reconsideration of the claims is requested.

Applicants respectfully request entry of this Amendment After Final as Applicants submit that claims 1, 40 and 49 are amended to include a claim element that was objected to in claim 23. Therefore, Applicants submit that entry of the present application would put the application in condition for allowance and would not require another search, as it is apparent that a search was conducted to determine that claim 23 was objected to. Further, entry of this Amendment After Final would place the application in better condition for appeal. Therefore, entry of this Amendment After Final is respectfully requested.

The Office Action objected to claims 1-19, 22-23, and 40-55 based upon informalities, including the allegation that the word "comprising" is used in a list of alternatives in a Markush claim. Applicant respectfully disagrees that the claims as presented include informalities. Applicant has utilized a Markush form to define the rigid material. However, Applicant has utilized open-ended claim language by utilizing the word "comprising" to define the filler. Applicant submits that the Markush form for the rigid material is proper and the open-ended form for defining the filler is proper. Applicant therefore respectfully requests that the objections to claims 1-19, 22-23, and 40-55 be withdrawn.

The Office Action rejected claims 1-11, 15-19, 40-45, and 48-54 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,099,561 (Alt). Claims 1-11, 14-15, 18-19, 40-45, and 47-54 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,578,075 (Dayton).

Applicant has amended independent claims 1, 40, and 49 to define the present invention as

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including at least one occluder, wherein the at least one occluder comprises a rigid material with pores. Neither the Alt patent nor the Dayton patent disclose an implantable prosthesis having an occluder. Rather, both the Alt patent and Dayton patent disclose stents which reinforce walls of lumens that allow blood to flow through the stent from one end to the other end.

Neither the Alt patent nor the Dayton patent anticipate any of the independent claims 1, 40, or 49 because neither the Alt patent nor the Dayton patent discloses each and every element as claimed. Reconsideration and allowance of claims 1, 40, and 49 and the claims that depend therefrom are respectfully requested.

The Examiner further rejected claims 12, 13, 46, and 55 under 35 U.S.C. § 103(a) as being unpatentable over the Dayton patent in view of U.S. Pat. No., 6,033,463 (Steinke et al.). As discussed above, the Dayton patent discloses a stent and does not disclose an implantable prosthesis comprising an occluder nor does the Steinke et al. patent. Since claims 12, 13, 46, and 55 depend from independent claims which are believed to be in allowable form, it follows that these dependent claims are also in allowable form. Reconsideration and allowance of claims 12, 13, 46, and 55 are respectfully requested.

In view of the amendments and the reasons provided above, it is believed that all pending claims are in condition for allowance. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,  
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